

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

WENDY RATH, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

JO-ANN STORES, LLC,

Defendant.

Civil Action No. 1:21-cv-00791-WMS

**PLAINTIFF’S NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiff Wendy Rath respectfully submits this Notice of Supplemental Authority to bring to the Court’s attention two recent decisions rejecting arguments made in Defendant’s motion to dismiss briefing, and rejecting the arguments and authority cited in Defendant’s Notice of Supplemental Authority (ECF No. 19). The two decisions are captioned *Mabe v. Wal-Mart Assocs., Inc.*, 2022 WL 874311 (N.D.N.Y. Mar. 24, 2022) and *Elhassa v. Hallmark Aviation Servs., L.P.*, 2022 WL 563264 (S.D.N.Y. Feb. 24, 2022), and they are attached hereto as **Exhibits A and B**, respectively.

Although Defendant claims the *Konkur* decision “supports the arguments made by Jo-Ann Stores in its pending motion to dismiss,” *see* ECF No. 19, that is not true, and Defendant neglects to mention its exact argument—and its reliance on *Konkur*—has been squarely rejected by the *Mabe* and *Elhassa* decisions. *See Mabe*, 2022 WL 8744, at \*4-\*8; *Elhassa*, 2022 WL 563264, at \*2.

Dated: March 28, 2022

Respectfully submitted,

By: /s/ Yitzchak Kopel

Yitzchak Kopel

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